



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/865,956	05/25/2001	Benjamin Kupersmit	4490-1	5966

7590 03/29/2005

MR. CLAY VIGODA
5618 GENEVA STREET
GREENWOOD VILLAGE, CO 80111

EXAMINER

GRAYSAY, TAMARA L

ART UNIT	PAPER NUMBER
----------	--------------

3623

DATE MAILED: 03/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/865,956

Applicant(s)

KUPERSMIT, BENJAMIN

Examiner

Tamara L. Graysay

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 September 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2 pages.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: app'd atty w/d.

DETAILED ACTION

Drawings

1. The drawings are objected to because of the following:
 - a. as failing to comply with 37 CFR 1.84(p)(4) because the figures depict reference character 284 as the client; however, the description also mentions 248 as the client;
 - b. as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description:
 - i. 282 and 283 (Figs. 3 and 8)
 - ii. 407 and 409 (Fig. 4A)
 - iii. 428a (Fig. 4C)
 - iv. 441 (Fig. 4D)
 - v. 447 and 499 (Fig. 4E)
 - vi. 508 (Fig. 5A)
 - vii. 521 and 523 (Fig. 5C)
 - viii. 981, 982, and 983, (Fig. 9);
 - c. as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference character(s) mentioned in the description:
 - i. 271 HELP
 - ii. 272 OOPS
 - iii. step 448.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be

Art Unit: 3623

labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.
3. The disclosure is objected to because of the following informalities:
 - a. the use of acronyms is acceptable, however, each should be spelled out at least at its first occurrence (HTML at page 12, line 9; IP at page 20, line 1; ASCII at page 22, line 19; CGI at page 27, line 13; CGI at page 27, line 13; DSL at page 42, line 26); and,
 - b. the Brief Description of Drawings at pages 19-20 does not include all of the figures. In particular, Fig. 4 should be Fig. 4A, 4B, 4C, 4D, 4E; Fig. 5 should be Fig. 5A, 5B, 5C; and Fig. 7 should be Fig. 7A, 7B, 7C.

Appropriate correction is required.

Art Unit: 3623

4. The use of the trademark Java has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology. It is not capitalized at page 42, line 16.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

5. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the specification must provide clear antecedent basis for the claim language including the step of recruiting, the recruiting functionalities, inbound phone calling, and allowing any individual with an Internet terminal to conduct an interview and gather data.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 6 and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 6, the claim is replete with idiomatic English and the features recited therein lack clear antecedent basis, and are not related to or distinguished from the method steps recited in independent claim 1. For example, “the recruiting,” “inbound phone calling,” “the

Art Unit: 3623

World Wide Web,” “the phone calls,” “the recruiting functionalities,” and “the recording of the responses”.

Regarding both claims 6 and 7, the preamble is not consistent with claim 1, and does not appear to be an attempt to change statutory subject matter because “the method of claim 1” is not included in the claim preamble or body. The claims have been treated as further limiting the method of claim 1.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 2, 4, and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly (cited by applicant, US-5913204) in view of Fuerst (cited by applicant, US-6189029).

a. Regarding claim 1, Kelly discloses a method of performing an Internet surveying comprising: deriving a scientifically representative set of respondents from a scientifically derived sample (note the discussion of selection criteria at col.2, lines 60-64, and col.3, lines 10-28); contacting said respondents (col.3, lines 29-35); collecting responses from said respondents wherein said respondents complete a survey (col.5, lines 7-38); and using the telephone phone probability sampling standards to conduct the survey (col. 3, lines 29-54).

Kelly lacks collecting responses and completing the survey on a website.

Fuerst teaches collecting responses from respondents over the Internet on a website. The survey allows a business to make marketing decisions more quickly in response to the instantaneous nature of the website responses collected from respondents over the Internet on a website.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Kelly to include collecting the responses and completing the survey on a website, such as suggested by Fuerst, in order to obtain immediate feedback from the survey results rather than having to wait for a survey response to arrive through a mail or courier service. The advantage of conducting the survey over the Internet allows a company to match products with customers anywhere in the world that has access to the Internet as evidenced by Fuerst.

b. Regarding claim 2, the combination of Kelly and Fuerst inherently includes a sample control module in that the combination ensures the RDD (one type of sampling method disclosed in Kelly) criteria are met.

c. Regarding claim 4, Fuerst teaches survey responses having, *for example*, a scaled agree/disagree response having five options including strongly agree, agree, neutral, disagree, and strongly disagree. The Fuerst response options are presented in a drop-down menu 805, which is a continuous line, as broadly recited. The options are selected by mouse-click or keyboard stroke as is well known in the art.

The examiner takes Official notice that the number and description of responses to a survey used to delineate an agree/disagree scale is old and well established in the survey art as being within the level of ordinary skill in order to ensure that respondents are distinguishing their answers in a manner that permits valid responses.

It would have been within the level of ordinary skill in the art at the time the invention was made to further modify the combination of Kelly and Fuerst to include the terms “somewhat agree” and “somewhat disagree” rather than the stronger terms set forth in Fuerst (agree, neutral, and disagree) because the skilled artisan would have recognized that a four option rather than five option response would reduce the time for a respondent to complete a survey and it would avoid a respondent remaining neutral on any of the responses, resulting in possible ineffective conclusions drawn from the survey results. These advantages are well known to those skilled in the survey art.

d. Regarding clam 5, the combination of Kelly and Fuerst includes website status, as broadly recited, insofar as a website user has a status of being a user when interacting with a website. Moreover, the response data of the combination is collected over the Internet via a website, thus it inherently includes “online” data collection as set forth in claim 5.

8. Claims 3 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly (cited by applicant, US-5913204) and Fuerst (cited by applicant, US-6189029), as applied to claim 1 above, and further in view of Ramot (US-5341412).

The examiner notes that Kelly includes a script used by the interviewer when conducting a survey (for example, C.3, L.55 – C.4, L.50).

Ramot teaches an automatic dialer used over an Internet connection, thus a person uses only one device rather than several.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of Kelly and Fuerst to include Internet-based dialing, such as taught by Ramot, in order to reduce both the amount and type of equipment that must be maintained.

The examiner takes Official notice that conducting business over the Internet is within the level of ordinary skill in the personnel management art, as evidenced by Fuerst's (applied in the rejection above) use of the Internet to conduct surveys rather than in person or manually.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the combination of Kelly and Fuerst to conduct other global company business practices over the Internet including accessing user work functions, such as logging in, so that a global-based company can employ persons from remote locations.

9. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly (cited by applicant, US-5913204), Fuerst (cited by applicant, US-6189029), and Ramot (US-5341412), as applied to claim 6 above, and further in view of Guheen (US-6721713).

Guheen teaches and integrated services digital network, whereby a single communications link is used for transmission of voice, video, and data (C.162, L.52-56) in order to permit multimedia transmission along the same communication line.

Art Unit: 3623

It would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the Kelly, Fuerst, and *** combination to include an ISDN, such as taught by Guheen, in order to simplify the network connections and permit multimedia transmission along the same communication line.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- The Sanders references (JP-09027001-A and EP-703540-A2) teach modular components to control a computer system.
- Gisby (US-6118865) teaches automatic dialing survey call center.
- Hamlin (US-6477504) teaches surveys conducted over a network.

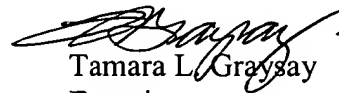
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamara L. Graysay whose telephone number is (703) 305-1918.

The examiner can normally be reached on Mon - Fri from 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz, can be reached on (703) 305-9643. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3623

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tamara L. Graysay
Examiner
Art Unit 3623

03182005